IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 1087 of 2004

Between:

S.Venkatanarayana Reddy, S/o.S.Chinnappa Reddy, Working as Secretary, Vayalpad Primary Agrl.Coop.Society, Vayalpad,Chittoor Dist.

..... PETITIONER

AND

1 The Divisional Cooperative officer, Madanapalli, Chittoor Dist.
2 The person-in-Charge/president, Vayalapad Primary Agrl.Coop.Society, Vayalpad, Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order direction or writ particularly one in nature of writ of Mandamus declaring the notice issued by the 2nd respondent insisting the petitioner to repay the salaries and other allowances which was drawn by him a sum of Rs.50,499/- with 18% interest within 15 days from the date of receipt of notice (Received on 17-1-2004) and proposing to issue the suspension notice as illegal, arbitrary and contrary to law and violative of Articles 14, 19 and 21 of the Constitution of India and also provisions under section 116-C(1) of cooperative Societies Act and Rules thereunder and in the teeth of the judgment of this Hon'ble Court dated 11-9-2002 made in WP.No. 3706 of 2002 and batch.

Counsel for the Petitioner:MR.M.VENKATA RAMANA REDDY

Counsel for the Respondent No.1: GP FOR COOPERATION

Counsel for the Respondent No.2: None appeared.

The Court made the following :

ORDER:

The petitioner is a Secretary of the 2nd respondent Society. He has questioned the notice issued by the Society, which is said to have been received by him on 17.1.2004 directing the petitioner to pay an amount of Rs.50,499/- drawn by him irregularly towards the salary and other allowances without any permission.

Learned counsel appearing for the petitioner submits that he has no objection for the repayment of any excess salaries and allowances, if the same were drawn illegally contrary to Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). It is his further contention that without fixing the staffing pattern, pay scales etc., in conformity with Section 116 (c) of the Act, the Society

cannot recover the arrears as held by this court in a decision reported in GOVERNMENT OF A.P. V. A.P. STATE COOPERATIVE SOCIETIES SECRETARIES AND EMPLOYEES UNION ANDOTHERS ([1]), wherein a division bench of this court held that all the Societies are bound to fix the staffing pattern, pay and other allowances and get the approval of the Registrar of Cooperative Societies subject to condition that the pay and allowances of the employees of the Society shall not exceed 2% of the working capital or 30% of the gross profit in terms of actuals in a year, whichever is less. Section 116 (c)(1) of the Act came into force with effect from 22.4.1985 and the Society shall comply with the said mandatory provisions of Section 116 (c) of the Act. The quantum of the amounts to be recovered from each one of the employees of the society concerned depends upon such fixation of the pay scales, emoluments and other allowances. After fixation of pay scales by the societies, they are entitled to recover the excess pay scales, for which they are ultimately entitled to.

Accordingly, the writ petition is disposed of directing the 2nd respondent to recover the salary and allowances said to have been drawn in excess by the petitioner after fixing the staffing pattern and pay & allowances in accordance with Section 116 (c)(1) of the Act, and pass appropriate orders. No costs.

14.9.2004

cvm

To,

1 The Divisional Cooperative officer, Madanapalli, Chittoor Dist.
2 The person-in-Charge/president, Vayalapad Primary Agrl.Coop.Society, Vayalpad, Chittoor Dist.

3 2 CCs to G.P. for Cooperation, High Court of A.P., Hyderabad (OUT).

4 2 CD copies.